

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

'08 MJ 8144

UNITED STATES OF AMERICA,

Plaintiff,

v.

Jose BERMUDEZ-Franco,

Defendant.

MAGISTRATE CASE NO.:

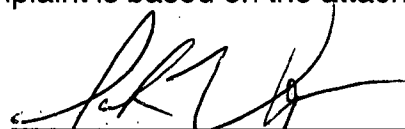
COMPLAINT FOR VIOLATION OF

Title 18, U.S.C., Sections 111 & 1114  
Assault on a Federal  
Officer (Felony)

The undersigned complainant, being duly sworn, states:

That on or about February 15, 2008, within the Southern District of California, defendant Jose BERMUDEZ-Franco did willfully and forcibly assault, resist, oppose, impede or interfere with a person named in Title 18, United States Code, Section 1114, to wit, U. S. Customs & Border Protection, U. S. Border Patrol Agent Franz Maish, was engaged in the performance of his official duties; in violation of Title 18, United States Code, Sections 111.

And the complainant states that this complaint is based on the attached Statement of Facts incorporated herein by reference.

  
SCOTT R. MCDERMOTT  
Special Agent  
Federal Bureau of Investigation

SWORN TO ME AND SUBSCRIBED IN MY PRESENCE THIS 19<sup>TH</sup> DAY OF  
FEBRUARY, 2008.

  
PETER C. LEWIS  
U. S. Magistrate Judge

1  
2 UNITED STATES OF AMERICA

3 v.

4 Jose BERMUDEZ-Franco

5 STATEMENT OF FACTS

6 I, Special Agent Ronald T. Ribail, declare under penalty  
7 perjury, the following is true and correct:

8 On Friday February 15, 2008, United States Border Patrol  
9 Agent (USBP) Agent Franz Maish, assigned to Calexico Sector, was  
10 conducting a routine patrol west of the Calexico Port of Entry,  
11 California. Agent Maish was notified that two suspected illegal  
12 aliens climbed over the International Boundary Fence and entered  
13 the United States. The individuals were traveling north on the  
14 west bank of the New River. USBP Agent Pedro Munoz responded in  
15 a vehicle to the location causing the two individuals to run  
16 south where Agent Maish intercepted them at the "Commercial  
17 Bridge".

18 As one of the individuals, later identified as Jose  
19 BERMUDEZ-Franco, was running towards Agent Maish he identified  
20 himself as a USBP Agent and instructed him in English and Spanish  
21 to stop. Agent Maish was wearing a USBP "Rough Duty" uniform.  
22 BERMUDEZ was initially detained but refused to comply and  
23 attempted to strike Agent Maish in the face. BERMUDEZ continued  
24 to resist and struck Agent Maish in chest several times. Agent

1 Maish struck BERMUDEZ in an attempt to subdue him and to protect  
2 himself. During this time, a number of other individuals were  
3 throwing rocks at Agent Maish and other agents in the area.

4 BERMUDEZ continued to resist and Agent Maish struck him with  
5 his service issued baton in the common peronial area two or three  
6 times. Eventually, Agent Maish was able to position BERMUDEZ  
7 face down on the ground. BERMUDEZ continued resisting by  
8 attempting to elbow and pull Agent Maish into the New River.

9 Agent Munoz arrived at the scene and instructed the  
10 individuals to stop throwing rocks. Agents Maish and Munoz were  
11 unable to handcuff BERMUDEZ but were able to transport him to a  
12 safer location. Additional USBP agents arrived and secured the  
13 scene. With the assistance of approximately five agents,  
14 BERMUDEZ was handcuffed, placed into a vehicle, and transported  
15 to the Calexico station.

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21 *16 M. Munoz*  
22 *2/17/08, 160-110*  
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